

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

In re:) **Case No. 17-17361 (AIH)**
)
Richard M. Osborne) **Chapter 11**
)
Debtor) **Judge Arthur I. Harris**

**Objection of the United States Trustee to Motion of Richard M. Osborne
To Sell a Parcel of Real Property Located
at Concord-Hambden Road, Concord Township, OH
Free of Any Interest of Any Entity Other Than the Estate**

Daniel M. McDermott, United States Trustee for Region 9 , by and through his counsel, objects to the *Motion of Richard M. Osborne To Sell a Parcel of Real Property Located at Concord-Hambden Road, Concord Township, OH Free of Any Interest of Any Entity Other Than the Estate* (“Motion”). In support of said objection, the United States Trustee states as follows:

1. Pursuant to 28 U.S.C. § 586, the United States Trustee is charged with the administrative oversight of cases commenced pursuant to Title 11 of the United States Bankruptcy Code. Pursuant to 11 U.S.C. § 307, the United States Trustee has standing to be heard in this matter.
2. On December 17, 2017. Debtor filed a voluntary petition under chapter 11, title 11. To date, the Debtor remains in possession.
3. On April 16, 2018, Debtor filed the Motion requesting the sale of real estate located at Concord-Hambden Road, Concord Township, OH to Sommers Real Estate Group or its nominee of the Debtor for \$400,00. The Motion as filed does not contain sufficient information to allow the Court and parties to determine if this sale is appropriate.
4. 11 U.S.C. § 363(b)(1) allows a bankruptcy court, after notice and hearing, to

authorize the sale of the debtor's assets outside the ordinary course of business. The Debtor has the burden of demonstrating a sound business purpose for the transaction. *See Comm. of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F. 2d 1063, 1071 (2nd Cir. 1983).

5. In this case, there is insufficient information to determine if the sale of this real estate is appropriate or is in the best interest of the estate. The Motion is silent as to any marketing that may have been done to sell the real estate. The Motion does not state if the transaction was negotiated at arms-length; if the purchase price is fair and reasonable; or if there have been any competing offers on the property or the ability for parties to present a competing offer. The Motion does not state if the buyer has the financial ability to consummate the sale.

6. The Motion states the buyer will pay a broker's commission to The Osborne Group-KW Commercial of \$25,000. The Osborne Group-KW Commercial is owned by Debtor's son Rick Osborne Jr. No application has been filed to employ a broker. No fees should be paid to the broker absent prior consent of the Court.

7. The United States Trustee suggests that the Motion as filed contains insufficient information for this Court to approve.

WHEREFORE, the United States Trustee respectfully requests this Honorable Court deny the Motion as filed and for such other relief as appropriate.

/s/Maria D. Giannirakis
Maria D. Giannirakis (0038220)
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CERTIFICATE OF SERVICE

I certify that on May 15, 2018, a true and correct copy of Objection to Debtor's Motion to Sell Property was served:

Via the Court's Electronic Case Filing System on these entities and individuals who are listed on the Court's Electronic Mail Notice List:

- Gregory P. Amend gamend@bdblaw.com, grichards@bdblaw.com
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